

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department – Telangana State - Mahabubnagar District – Appeal Petition filed by Sri P.Totappa S/o P.Komaraiah, Occ: TSRTC Employee, presently residing at Plot No. 18, Hayathnagar, Rangareddy District, under Section 7(2) of the Act 16 of 1993, against the orders of by the Collector & District Magistrate, Mahabubnagar District vide Procs No.50/2021, dated 07.07.2021 – APPEAL DISMISSED - Orders – Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No.65

Dated:09.10.2023.
Read the following:-

1. Proceedings No.50/2021, dated 07.07.2021 O/o. the Collector & District Magistrate, Mahabubnagar District.
2. Appeal petition filed Sri P.Totappa S/o P.Komaraiah, Occ: TSRTC Employee, R/o Plot No. 18, Hayathnagar, Rangareddy District, dated 29.09.2021.
3. Govt. Memo. & Lr.No.29/TW.LTR/2022, dated 13.01.2022.
4. Orders of the Hon'ble High Court for the State of Telangana at Hyderabad, in WP.No.6099 of 2022, dated 15.12.2022.
5. From the District Tribal Development Officer, Mahabubnagar District, Lr.Rc.No.A4/1018/2023, dated 22.05.2023
6. Govt. Notice No.29/TW.LTR/2022, dated 09.05.2023, 16.06.2023, 11.07.2023, 27.07.2023 & 08.08.2023.
7. Written Arguments filed by Counsel for the appellant on 26.8.2023

ORDER:-

In the reference 1st read above, the Collector & District Magistrate, Mahabubnagar District has issued orders to cancelling the bogus ST- "Yerukalas" caste certificate bearing No.R.Dis.B/1301/83, dated 03.05.1983 of Sri P.Totappa S/o P.Komaraiah, Occ: TSRTC Employee, R/o Plot No. 77, Laxmi Nagar Colony, Tukuguda (V), Maheswaram (M), Rangareddy District issued by the Tahsildar, Athmakur (M) of Mahabubnagar District for the following reasons:

- i) On a complaint made by Sri Bhaniya Naik E-20566, TI-III that Sri Totappa E-109376 TI-III had secured bogus caste certificate from the Tahsildar, Athmakur, the Depot Manager, Falaknuma Depot, TSRTC, Hyderabad has requested the District Collector, Mahabubnagar District for taking necessary action.
- ii) The Tahsildar, Devarakadra vide letter No.B/2317/2018, dated 29.12.2018 had submitted enquiry report stating that Sri P.Totappa S/o P.Kurmaiah R/o Bollaram village belongs to Vaddera BC-A caste and Head Master Gotoor had reported that as per School records Sri Totappa S/o P.Kurmaiah R/o Bollaram belongs to Vaddera BC-A caste.
- iii) Case was taken on file and referred to the District Level Scrutiny Committee headed by the Chairman (Joint Collector/ Addl.Collector) who conducted enquiry into the case – gist of which is as under:
 - On 5.6.2021 Sri P.Thotappa had attended the hearing. As per his version he has gone in adoption to a Yerukali ST family though he belongs to Vaddera BC (A) Caste. The individual could not substantiate that he belongs to ST caste.
- iv) Therefore, in view of the above findings, in exercise of the powers conferred U/s.5 (1) of the AP (SCs, STs & BCs) Regulation of Issue of Community Certificate Act, 16 of 193 read with Rule 9 (7) of TS (SCs, STs & BCs) Issue of Community, Nativity and Date of Birth Certificate Rules, 1997 communicated vide GO Ms.No.58, Social Welfare Department, dated 12.05.1997 and adapted to the State of Telangana vide G.O.Ms.No5, Scheduled Caste Development (POA.A3) Department, dated 08.08.2014, the Scheduled Tribe Certificate obtained by Sri P.Thotappa has been cancelled.

(Contd....2)

2. Aggrieved by the above cancellation orders of the Collector & District Magistrate, Mahabubabad, in the reference 2nd read above, the Appellant Sri P.Totappa S/o P.Kurmaiah, TSRTC Employee R/o Plot No.18, Hayathnagar, Rangareddy District has filed the present Appeal before the Government under Section 7 (3) of the (SCs, STs and BCs) Regulation of Community Certificate Act 16 of 1993 urging the following grounds:

- i) The respondent erred in cancelling the caste certificate of the appellant without properly appreciating the facts and circumstances of the case and the material available on record.
- ii) The respondent failed to note that the appellant herein right from his childhood was brought up under care and custody of Sri Papanna who belongs to Scheduled Tribe (Yerukalas) as Sri Papanna was not having any children and thus the appellant is the adopted son of Sri Papanna and he sought the Caste Certificate to the appellant and therefore, the impugned order cancelling the Caste Certificate issued at the time of childhood of the appellant is quite unwarranted.
- iii) The respondent ought to have seen that the appellant herein had pursued his entire educational career based on the ST certificate and was appointed in the RTC on 26-12-1986 as Temporary Conductor and later he was promoted as ADC and Ticket Inspector-III based on the ST Certificate and thus the appellant rendered 34 years of service and at this juncture, cancelling the Caste Certificate based on the complaint given a person who is no related to the appellant, except a co-employee.
- iv) The respondent relied on the report of the Tahsildar, Devarakadra Mandal who reported that as per the school records the appellant belongs to Vaddera Caste and the appellant never denied that he belongs to Vaddera caste but he was brought up by one Sri Papanna who belongs to ST and hence he is the adopted son of Sri Papanna and hence the Caste Certificate issued to the appellant is genuine.
- v) The respondent ought to have seen that the Caste Certificate was issued to the appellant by the then Tahsildar after enquiry and in accordance with the procedure and having come to know that the appellant was brought up under the care and custody of a ST person and cancelling the Caste Certificate issued by the predecessor of the respondent is nothing but doubting his integrity.
- vi) The respondent committed grave error in entertaining the complaint given by Mr.Bhaniya Naik who is no way related to the appellant and his caste and he has no locus-standi to make any complaint regarding the caste certificate of the appellant and the complaint given by him is motivated and to score the personal grudge against the appellant for getting the promotion for his intelligence.
- vii) The respondent cannot cancel the caste certificate unilaterally at the fag end of his service and by virtue of the impugned order, the entire life career of the appellant is put to jeopardy and the appellant and his entire family members are put to suffer untold hardship.
- viii) The respondent instead of relying on the report of the Tahsildar, Devarakadra Mandal, ought to have conducted personal enquiry in the village to ascertain the fact as to the relationship of the appellant with Sri Papanna.
- ix) Viewed from any angle, the order under appeal is not sustainable in the eyes of law and hence liable to be set aside.
- x) Such other grounds that may be urged at the time of hearing.

(Contd....3)

3. In the reference 3rd read above, Government have admitted the above Appeal petition duly rejecting the stay application of the Appellant, as there are no sufficient grounds and communicated a copy of the Appeal petition to the Collector & District Magistrate, Mahabubnagar for sending para-wise remarks and original case records to Government immediately.

4. In the reference 4th read above, the Appellant Thotappa has filed WP No.6099 of 2022 before the Hon'ble High Court for the State of Telangana at Hyderabad and the Hon'ble High Court has disposed the said Writ Petition on 15.12.2022 making the following order (operative part is reproduced below):

"4. Learned Government Pleader relied upon the averments made in the counter affidavit. On going through the same, this Court finds that the appeal has already been admitted by the Government and therefore in the interest of justice, it is expedient to direct the Government to dispose of the appeal within a time frame. In view of the same, the 1st respondent is directed to dispose of the appeal of the petitioner within a period of three (03) months from the date of receipt of a copy of this order and till such time the 1st respondent disposes of the appeal there shall be stay of the order of the District Collector dated 07.07.201 bearing Proceedings No.50/2021.

5. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs."

5. In the reference, 5th read above, the District Tribal Development Officer, Mahabubnagar has submitted the connected case record file bearing No.Rev/C2-VCC/0029/2017 along with para-wise remark of the District Collector, Mahabubnagar. The gist of para-wise remarks is as under:

- i) The Tahsildar, Devarakadra Mandal has enquired into the matter and submitted a report vide Ref.No.B/2317/2018, dated 29.12.2018 stating that Sri P.Totappa S/o P.Kurmaiah R/o Bollaram village belongs to "Vaddara" BC-A caste and according to Head Master, Gotoor Sri P.Totappa S/o P.Kurmaiah R/o Bollaram village belongs to Vaddara BC-A caste.
- ii) The District Level Scrutiny Committee headed by the Joint Collector (Additional Collector) as Chairman has conducted enquiry into the false ST caste certificate issued to Sri P.Totappa S/o P.Kurmaiah, R/o Plot No.18, Hayath Nagar, Rangareddy on 13.08.2020 and 20.01.2021. The Appellant herein has appeared before the DLSC and stated that he belongs to "Vaddara" BC-A caste. But, the appellant herein has not filed any clinching evidence to substantiate his claim. The grounds urged in the appeal are not supported by any documentary evidence, therefore, not correct and deserves no consideration.

6. In the reference 6th read above, notices were issued to the appellant and all other concerned to attend for hearing on 24.06.2023 and 26.08.2023 at 3.00 PM. Appellant and his counsel called present. The Counsel for Appellant has filed Written Arguments during hearing on 26.8.2023 vide reference 7th read above – gist of which is as under:

- i) One Sri Papanna S/o Kistanna belongs to Yerukalas Community (ST) adopted the Appellant while he was in childhood. Since then the Appellant is staying with Papanna being his adopted son. During life time of Papanna, he also obtained Caste Certificate in the name of Appellant from the then Tahsildar, Atmakur, Mahaboobnagar District vide Proceedings R.Dis.No.B1/1301/83, dated 03.05.1985 stating that the Appellant belongs to Erukala Caste with Sl.No.33 of G.O.Ms.No.838, dated 15.12.1977.
- ii) The Appellant was appointed in APSRTC on 26.12.1986 on the strength of ST Certificate. Since then performing his duties with utmost sincerity and without remarks. Considering his services, the Department had promoted him as Traffic Inspector Grade-III. The Appellant is having 35 years of unblemished record of service without any complaint of whatsoever.

(Contd....4)

- iii) Basing on a false complaint given by one of his colleagues, the Vigilance Department conducted enquiry and proved the caste certificate of the appellant as fake. Pursuant to the proceedings dated 30.6.2021 of the District Collector, Mahabubnagar, the Department has dismissed the Appellant from service vide Proceedings No.E3/114 (1)/2017-FM, dated 17.09.2021 without considering his explanation dated 15.09.2021 to the Notice for Dismissal.
- iv) The complainant M.Bhaniya is having grudge against the Appellant as such given a false complaint before the Department. The Department without considering the unblemished 35 years of service of the Appellant had dismissed him from the services. If presumed for a moment the contention of the Department is true that the Appellant submitted fake caste certificate at the time of joining, then why the Department did not enquire all these years till the alleged complaint lodged by the said M.Bhaniya. The said fact reveals that the Department without following due procedure had dismissed the Appellant at the fag end stage.
- v) The Respondent failed to appreciate contention of the Appellant that right from his childhood was brought up under care and custody of Papanna who belongs to ST (Yerukalas) as the said Papanna was not having any children and the Appellant was adopted son of Papanna. The said Papanna had also obtained Caste Certificate in favour of Appellant, therefore the impugned order cancelling the caste certificate issued at the time of childhood is quite unwarranted.
- vi) The Respondent ought to have appreciated that the Appellant had pursued his entire education career based on the ST Certificate and was appointed in the RTC on 26.12.1986, promoted as ADC and Ticket Inspector-III basing on the said ST certificate. The Respondent has cancelled the caste certificate without considering unblemished record of 34 years of service basing on the alleged complaint given by a person who is not having any relation to the Appellant except a co-employee.
- vii) The Respondent committed grave error in entertaining the complaint given by Mr.Bhaniya Naik who is no way related to the Appellant and his caste and he has no locus standi to make any complaint regarding the caste certificate of the Appellant and the said complaint given by him is motivated and to score personal grudge against the Appellant for getting the promotion for his intelligence.
- viii) Therefore, prayed the Government to allow the appeal by setting aside impugned gazette proceedings dated 07.07.2021 in File No.50/2021 on the file of Respondent in the interest of justice.

7. Findings

- The contention of the Appellant is that he was brought up by one Papanna of Yerukalas ST community and treating him as his adopted son, he obtained the ST Yerukala Caste Certificate to the Appellant. For this purpose, a xerox copy of roughly telugu-hand written document is produced stating adoption of the appellant by one Erkali Papanna with date 5.11.81 (over-written).
- The legal position with regard to Scheduled Tribe Status of children through Adoption is as under:
 - Section 2 (2) of the Hindu Adoption and Maintenance Act, 1956 (Central Act) reads as follows:
 - "(2) Notwithstanding anything contained in sub-section (1), nothing contained in this Act shall apply to the members of any Scheduled Tribe within the meaning of clause (25) of Article 366 of the Constitution unless the Central Government, by notification in the official Gazette, otherwise directs".

(Contd....5)

- Therefore, adoption cannot be means for claiming Scheduled Tribe status and adoption of non-tribal children by Scheduled Tribe parents is invalid for the purpose of Constitution. The Hon'ble High Court of Andhra Pradesh in W.P.No.11914 of 1985 Bandi Srinivas Vs. Osmania University, Hyderabad also upheld this.

8. Government after careful examination of the matter and in view of the above findings hereby dismiss the Appeal filed by Sri P.Totappa, S/o P.Komaraiah, Occ: TSRTC Employee, presently residing at Plot No. 18, Hayathnagar, Rangareddy District duly upholding orders of the District Collector, Mahabubnagar in Procs.No.50/2021, dated 7.7.2021, cancelling the Scheduled Tribe Certificate bearing No.B/1301/1993, dated 03.05.1983 issued by the Tahsildar, Athmakur to the Appellant.

9. The Collector & District Magistrate, Mahabubnagar District shall take further necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr.CHRISTINA Z.CHONGTHU,
SECRETARY TO GOVERNMENT.

To

The Collector & District Magistrate, Mahabubnagar District (By RPAD)
Sri P.Totappa S/o P.Komaraiah, Occ: TSRTC Employee,
presently residing at Plot No. 18,
Hayathnagar, Rangareddy District -504313 (By RPAD)

Copy to:-

Sri N.Pandaiah, Advocate, # 2-21165/C, Flat No. 102,
Sree Durga Residency, Nallakunta Tilaknagar, Hyderabad-44. (By RPAD).
The Director, TCR&TI, DSS Bhavan, Hyderabad.
The District Tribal Development Officer, Mahabubnagar District.
The Tahsildar, Athmakur Mandal, Mahabubnagar District.
The P.S. to Hon'ble Minister for ST Welfare.
The PA to Secretary (TW).
The PA to Special Secretary (TW).
SC/SF.

//FORWARDED::BY ORDER//

SECTION OFFICER.